Revenue 1935) Department.

SERIES

G.O. No. 3233

2 12-35

Dated ~~21-12-35~~

[Despatch Abstract.]

ALIENATION - Land and Revenue - (South Kanara)
Mangalore Taluk - Bolgor village - T.S.Nos.665/1 and 666/84 -
Park - Municipal Council, Mangalore - Objection to certain
conditions of alienation - Orders passed.

DEPARTMENT.

Received 17 JUL 1939 19 Registered 19

Subject.

ALIENATION -- Land & Revenue - Boloor Village - T. S. No. 666/84 and 663/1.

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L.A. Deptt.

Rev. Deptt. W.O.

L.A. W.O. No 2154B-1B7 dt. 21.7.1939. 19/7 21.7.39

ENCLOSURES.

No.

pare copies

No. 10507-38-D2.

Station Mangalore, *ated the* 12th July 19 39.

From (Name) Sri M. Narayana Shenoy, B.A., B.L.,

(Designation) Commissioner, Mangalore Municipality, Mangalore.

To The Secretary to the Government of Madras,
Local Administration Department.
Fort St.George,
MADRAS.

Through
The Chairman,
Municipal Council,
Mangalore.

Sir,

The Municipal Council on the recommendation of a Committee appointed for the purpose (copy of the report enclosed) decided to apply for the alienation of the plots T.S.Nos.666/84 and 663/1 of Boloor village for use as a park. The total extent of the plots is 2 acres 15 cents (1.89 acres + 26 cents) and they are reserved for a park in the Kodialbail West Ward Town Planning Scheme now pending with Government. The Collector to whom the

alienation

alienation application was made offered a set of conditions nd requested to send a copy of the resolution of the Council greeing to those conditions. A copy of conditions 2, 3, 6, 3 & 14 referred above are herewith enclosed. As these were lashing with the object with which the Council wanted to have he land the Council by its resolution No. 69, dated the 12th ay 1939 (copy enclosed) requested the Collector on the ecommendation of the Law Committee to modify the same. This equest has been declined by the Collector in his D. Dis. 8088/38, ated the 3rd June 1939. The Council has therefore decided to ddress Government in the matter. A copy of Council resolution o.38, dated the 19th June 1939 is enclosed.

p.7 cf
p.53-55 cf
also p 49 cf
p.47 cf
p 51 cf
p 57 cf
p 49 cf
p 11 cf

- - - -

REPORT OF THE COMMITTEE.

The Committee recommends that the Government is requested to alienate the land in favour of the Municipal Council to be used as a park and as a place of public resort with liberty to the Council to lease out such portion as the Council may from time to time decide for an horticultural garden to be laid out and maintained by the lessee and also with liberty to establish and maintain a gymnasium and also with liberty to put up such structures as are compatible with the use of the plot as a park and gymnasium.

Sd/B.Venkatarao Baliga,
27.10.38.
Chairman, M. C.

/ True Copy /

Municipal Office,
Mangalore,12-7-39.

Commissioner, M.M.

Compd/13/14/7

x x x

2) The park shall be laid out within two years from the date of the grant.

3) No building shall be constructed on the land without the previous permission of the Collector of the District.

x x x

5) No radio set shall be installed on the land without the previous permission of the Government.

x x x

3) The market value of the land shall be collected from the grantee if at any time it is found that the grantee derives a substantial income from the land.

4) Full ground rent shall be levied if at any time any net income is derived from the land or if any of the conditions of the alienation are infringed. In the latter case the ground rent shall be levied from the date of the infringeme

Sd/
For Collector 28/2/39.

/True extract/

Municipal Office, Mangalore,)
Dated the 12th July 1939)

Commissioner,M.M.

Compd/ 1417

Extract from the Proceedings of a meeting of the Mangalore Municipal Council, dated the 12th May 1939.

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x x

69. Council resolution No.49, dated the 27th March 1939 preferring to the Law Committee letter No.8088/38/B3 dated the 28th February 1939 from the Collector of South Kanara, requesting to send a copy of the resolution of the Municipal Council agreeing to the conditions mentioned therein in respect of alienation T.S.No.666/84 and 663/1 of Boloor A village to be used as a park and office note pointing out that some of the conditions conflict with the object the Council had in view and the Law Committee's opinion thereon.

The Law Committee's opinion is accepted.

x

(sd) B. Venkatarao Baliga,
Chairman, M.C.

/ True Extract /

Municipal Office, Mangalore,
Dated the 12th July 1939.

Commissioner, M.M.

Compd/ 9/141)

H.D.U.13/7/39.

Extract from the Proceedings of a meeting of the Municipal Law Committee, dated the 21st April 1939.

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x x x

6. Read Council's resolution No.49, dated the 27th March 1939 referring to the Law Committee letter 8088/38/B3 dated the 28th February 1939 from the Collector of South Kanara requesting to send a copy of the resolution of the Municipal Council agreeing to the conditions mentioned therein in respect of alienation T.S.No.666/84 and 663/1 of Boloor A village to be used as a park and office note pointing out that some of the conditions conflict with the object the council had in view.

The object with which and the purposes for which the Council requested the land to be alienated are set out in the resolution of the Council. The Collector may be requested to modify and alter the conditions so as to enable the Council to carry out its object if the Government should be pleased to alienate the land.

x

Sd/B.Venkatarao Baliga,
Chairman, M.C.

/True Extract/

Municipal Office, Mangalore, I
Dated the 12th July 1939. I

Commissioner, M.M.

Compd 13/1417
H.D.U.13/7/39.

Extract from the Proceedings of a Meeting of the Mangalore Municipal Council, dated the 19th June 1939.

38. Council resolution No.69, dated the 12th May 1939 accepting the Law Committee's opinion requesting the Collector to modify the alienation conditions in respect of T. S. No. 666/84 and 663/1 of Boloor village required by the Municipal Council for use as a park and Collector's D.Dis. 8088/38, dated the 3rd June 1939 informing that the land cannot be alienated if the Municipality is not willing to agree to all the conditions already offered to it.

The Government to be addressed to alienate the plot for the purpose referred to.

x x x

Sd/ B. Venkatarao Baliga,
Chairman, M.C.

/True Extract/

Municipal Office,
Mangalore, 12-7-39

Commissioner, M.M.

Compd/B.147
H.D.U.13/7/39.

13

Rev dept

Alienation – Land Rev – (S. Kanara) – Mangalore Tk – Bolooor village – T.S. Nos 663/1 and 666/8c – Park – Memorial, Mangalore – From the Commr

I.A. 27/9 ; Ref 28/10.
F.R 28/10 ; Ref 12/11

H/1-2 of Mangalore Mcty, No 10537/38-D2 dt 12-7-39.

Endt No 3850 F/39-1 dt 25.7.39

Referred to the Bd of Rev for remarks.

28/7.

27-7-39

27/7

The Bd of Rev
(with the Commr's letter and enclosures in original to be retd)

H/1-2 cf
H/3-11 cf

Proceedings
29/7/39. Rev F3 (A at p1 cf)

Rev
27/7/39.

C.F. 31—14,000—7-7-37.

Revenue **DEPARTMENT.**

CURRENT No. 6053 F

Registered 8-11-39. 19

Subject.

Alienation - Land Revenue - (South Kanara) - Mangalore taluk - Boloor village - T.S. Nos. 663/1 and 666/84 - Park Municipal - Mangalore - Report submitted.

Ref. E. No. 4487/39-2

Station Madras, *Dated the* 6th November 19 39

From

S. Venkateswaran, Esq., I.C.S.,

Secretary,

Board of Revenue.

F.W. Stewart, Esq., C.I.E., M.C., I.C.S.,
Commissioner of Land Revenue.

...

Read :-

5/3 cf Government Revenue Department Endorsement No. 3890 F.39-1 dated 28-7-1939.

Letter from Sri. Rao Bahadur C.P. Karunakara Menon, B.A., Collector of South Kanara, B.Dis. No. 5505/1939, dated 17th August 1939.

...

REFERENCE:

With reference to the Government Memorandum

p 18 cf read above, the Board submits the following report:-

The Municipal Council, Mangalore, applied to the Collector of South Kanara for the alienation of S.Nos. 663/1 and 666/84 of Boloor village, Mangalore taluk, in its favour free of charge for a park. As it did not

agree

agree to the usual conditions offered to it for acceptance, the Collector refused to alienate the lands. The Municipal Council has addressed the Government against this order of the Collector.

2. The resolution of the Municipal Council, applying to the Collector for the alienation of land is at 7 c.f. of the Collector's file D.Dis. 8088/38 dated 3-6-1939 enclosed. The Municipal Council requested the Collector to alienate the plots "to be used as a park and a place of public resort, with liberty to the Council to lease out such portions as the Council may from time to time decide upon for a horticultural garden, and to erect a gymnasium and to put up such structures as are consistent with the use of the plot for the said purposes". From this resolution, it is clear that the Municipal Council wanted the land for the following purposes:-

(1) to open a Park, with power to the Council to lease it for a horticultural garden, and -

(2) to erect a gymnasium and put up structures on the land which are consistent with the purpose of the alienation.

The first object shows that the Municipal Council will lease out a portion of the land year after year to private parties for raising gardens and will thus derive income from it. This cannot be considered a public purpose and alienation will not, therefore, be appropriate except for a park and a gymnasium.

3. As regards the conditions objected to by the Council, the Board offers the following remarks:-

Condition 2. "The park shall be laid out within two years from the date of the grant".

The purpose of this condition is to see that the object of the alienation is carried out within a reasonable period, and to take steps for the cancellation of the alienation, if the

object is not realised within the time allowed. In the absence of such a condition the Government cannot take steps for the cancellation of the grant and the alienee may indefinitely postpone the fulfilment of the purpose. If the Municipal Council is not able to fulfil the condition within the time allowed, it can apply for an extension of time. The period of two years allowed in this case is more than sufficient for the purpose, which does not seem to require investment of a large capital." There is, therefore, no just cause for objecting to this condition. But the condition has to be modified to include the gymnasium also and revised as follows:-

"(2) The park shall be laid out and the gymnasium established within two years from the date of the grant".

Condition 3. "No building shall be constructed on the land without the previous permission of the Collector of the District".

pp 99-100 of Bk No I pg 5 of (H)

This condition is necessary according to the instructions in B.S.O. 24 (10) as modified by G.O. Ms. No. 2422, Revenue, dated 14-10-35. The Municipal Council wants that this condition should be modified so as to enable it to put up such structures as may be compatible with the use of the plot as a park and gymnasium without the previous permission of the Collector. The Municipal Council has not specified the nature of the buildings or structures proposed to be put up by it. If the condition is modified, as requested by the Municipal Council, there will be difficulty later on in deciding whether any building erected without the permission of the Collector is compatible with the purpose of the alienation or not. If previous permission is applied for, the Collector will have the opportunity for examining whether the building is a necessary adjunct before sanctioning the required permission. In the circumstances there is no need to waive or modify the condition, as proposed by the Municipal Council.

Condition (6). "No radio shall be erected on the land without the previous permission of the Government".

This condition is inserted mainly with a view to see whether the installation of the radio set will cause inconvenience to the people around the locality. If the Municip Council now proposes to instal the radio, the Collector can report even now whether the installation will be objectionab or not and it can be allowed if it is not objectionable. There will be no need then to impose the condition.

Condition(13). "The market value of the land shall collected if at any time it is found that the grantee derive a substantial income from the land".

This condition has been ordered to be imposed in all cases of alienation of land to local bodies free of value, i G.O. No. 431, Revenue, dated 17-2-1938. There is no reason omit this condition as it will be enforced only when a subst income is derived from the land at any time in the future.

Condition (14). "Full ground rent shall be levied at any time any net income is derived from the land or if an of the conditions of the alienation are infringed. In the latter case, the ground rent shall be levied from the date o such infringement".

This condition reserves the right of the Government levy the land revenue in certain circumstances. It is imposed in all cases of alienation free of land revenue, irrespective of whether the alienation is for a local body, private person, private institution or company or society. It is necessary and reasonable. There is no reason to omit it.

4. For the reasons set forth above the Board is of opinion that there is no case for the alienation of the lands to the Municipal Council unless it agrees to all the conditions except

condition

condition (6) which can be decided upon now.

for SECRETARY. 7.11.39.

To

The Secretary to Government
Revenue Department
(with enclos.).

VSK.6-11.

Rev dept.

Alienation - Land and Rev - (S. Kamara).
Mangalore Tk - Bolooor village -
T.S. nos 662/1 and 666/84 - Park. N/plot
Mangalore.
o the Board of Rev. Endt no 3890 F/39-1 dt 28-7-39
rom the Board of Rev. Rejee Enco 4487/39-1 dt 6-11-39

To w.s.

Please see the letter from the Commissioner Mangalore repty at pp 1-11 cf, the last at p13 cf and the Board's rejee at pp 15-19 cf. For the reasons stated in para 3 of its rejee at pp 16-19 cf, the Board is of opinion that there is no case for the alienation of the land to the Rptd unless it agrees to all the Conditions except Condition (6). The Bd has stated that if the Rptd should propose to instal the radio set now a report can be called for from the Collector as to whether the installation will be objectionable or not and the inclusion or omission of Condition (6) may be decided. But before addressing the repty on this point it would perhaps be advisable to find out even now whether there is any objection to the installation of the radio set in the area in question. Subject to orders a draft memo

p 18 cf - unnecessary. It will all depends on the circumstances existing at the time when the radio is actually proposed to be installed. For example we do not permit stations which will interfere with religious services in an adjoining

DEPARTMENT.

Rv 6361F

Registered 23-11-39 19

Subject.

Alienation -- Land and Revenue - Mangalore Taluk - Boloor village -- T.S.No 663/1 and 666/84 - Bank

Reference:-This office Ref. C.No.10507/D2-38,dated 12th July 1939. Government Memo No.3890/F/39-2 dated 18th Septe 1939.

ENCLOSURES

No. .....

Spare copies

Ref:C. No. 10507/D2-38

Station.... Mangalore, *Dated the*.. 18th November 19 39

From (Name) Sri. M. Narayana Shenoy, B.A.,B.L., - - - -

(Designation) Commissioner, Mangalore Municipality, Mangalore.

To The Secretary to the Government of Madras,

Through

The Chairman,
Municipal Council,
Mangalore.

REVENUE Department.
Fort St.George,
Madras.

Sir,

I request that Government may be pleased to pass early orders on the reference.

Commissioner, M.M.

F o r w a r d e d:

18th November 1939. Chairman, M.C.

HDU/18/11/39

Compd/

DESPATCHED
21. NOV. 1939

to the BD as submitted for approval.

11/11

14/11

Please see the BD's report at fols 15-19 C.f. The conds are the usual conds & no objection could be reasonably taken to them. The Municipality may be informed hereat if it wants the land alienated it should agree to the conds proposed. L.A.D / should see.

15/11

S.

The Municipality may be informed in the enclosed draft / A

17/11

L.A. Rev.no.no 3890 F/39-2

17-11-39

L.A. Deptt

This deptt may agree with the Rev Secretary. The case may be returned to Rev no

AP

38568

RM
20/11/39

TR
21.11.39

Sec
17.5

R 6370 F
23.11.39

Thm 22/11

AP 22/11

Rev.

Rev dept LA no. 38568-1A1

Tons

A draft order is submitted for approval in accordance w

Secy's instructions at 'A' on p 2 ante.

28/11

29/11

30

1/12

C.F.10.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	4/12	GPR
When copied ..		
When examined...		
When signed ...		
When despatched.		

SUBJECT:—

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

C No. 3890 F/39 From the Commr., Mangalore Mpty, No. 10507-38-D-2, dated 12-7- 1939 pp 1-11 Cf

" _____ To, the Bd of Rev cust No 3890 F/39-1 " 28-7- 1939 p 13 Cf

" _____ From _____ Refer F No 4487/39-1; " 6-11- 1939 pp 15-19 Cf.

Order / Resolution Ms. / Rout. No. 3233, dated 2/12/39. 19____.

The Municipal Council, Mangalore, has applied for the alienation of the plot of land in T.S. nos 663/1 and 666/84 of Bolloor village for a park.

3. It has, however, objects to the imposition of certain conditions of alienation proposed by the Collector of S. Kanara. The objections are dealt with below.

Condition 2 = "The park shall be laid out within two years from the date of the grant"

If the Mpl Council is not able to fulfil the condition

within the time allowed, it can apply for an extension of time. The period of two years allowed under this case will be more than sufficient for the purpose, which does not seem to require the investment of a large capital. The Govt have however no objection to revising the condition as follows :- "(2) The park shall be laid out and the gymnasium established within two years from the date of the grant."

Condition 3 " no building shall be Constructed on the land without the previous permission of the Collector of the District".

The Municipal Council desires that this Condition should be modified so as to enable it to put up such structures as may be compatible with the use of the plot as a park and gymnasium without the previous permission of the Collector. The Municipal Cl has not specified the nature of the buildings or structures proposed to be put up by it. If the Condition is modified, as requested by the

Municipal Council, there will be difficulty later on in deciding whether any building erected without the permission of the Collector is Compatible with the purpose of the alienation or not. If previous permission is applied for, the Collector will have the opportunity for examining whether or the building is a necessary adjunct before Sanctioning the required permission. In the circumstances there are no grounds for waiving or modifying the Condition.

Condition 6. "No radio shall be so erected on the Land without the previous permission of the Govt."

If the Municipal Council proposes to instal the radio now and the Collector Considers its installation unobjectionable, the Condition proposed will be omitted.

Condition 13. "The market value of the land shall be collected if at any time it is found that the grantee derives a substantial income from the land".

This Condition is imposed in all Cases of alienation of land to

Local bodies and Govt Consider that there is no need to omit it as it will be enforced only when a substantial income is derived from the land at any future date.

Condition 14. " Full ground rent shall be levied if at any time any net income is derived from the land or if any of the Conditions of the alienation are infringed. In the latter Case the ground rent shall be levied from the date of such infringement".

This Condition is imposed in all Cases of alienation free of land revenue, irrespective of whether the alienation is for a local body, private person, private institution or Company or society. The Condition is necessary and Cannot be omitted.

2. The Municipal Council is informed that the land will be alienated to it only on its agreeing to the Conditions mentioned in para 1 above.

To the Commissioner, Mangalore (thro' the DC)

The BD of Rev.

p 18/1

30/11

1

5/12/39